

AMENDED IN SENATE SEPTEMBER 7, 2007

SENATE BILL

No. 157

Introduced by Senators Wiggins and Ashburn Senator Wiggins
(Principal coauthor: Assembly Member Berg)

January 30, 2007

~~An act to add Sections 12012.53 and 12012.54 to the Government Code, relating to gaming. An act to amend Sections 23356.1, 23399.6, and 25503.9 of the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 157, as amended, Wiggins. ~~Tribal gaming: compact ratification. Alcoholic beverages: winegrower's license.~~

(1) *The Alcoholic Beverage Control Act authorizes a person issued a winegrower's license to conduct winetastings either on or off the winegrower's premises. The act provides that when a winetasting is held off the winegrower's premises at an event sponsored by a private nonprofit organization, as defined, no wine may be sold, and no sales or orders solicited, except as provided.*

This bill would expand the definition of a nonprofit organization to include specified tax-exempt organizations.

(2) *The Alcoholic Beverage Control Act authorizes the issuance of a wine sales permit to any licensee under a winegrower's license, which authorizes the sale of bottled wine produced by the winegrower's at specified events that are sponsored by an organization that is exempt from taxation, as specified.*

This bill would expand the list of organizations that are exempt from taxation, as specified, that are authorized to sponsor specified events.

(3) *The Alcoholic Beverage Control Act provides that nothing in that law prohibits a winegrower or a beer and wine wholesaler, as specified, from giving or selling wine to certain nonprofit organizations, as specified, at prices other than those contained in schedules filed with the Department of Alcoholic Beverage Control.*

This bill would expand the list of nonprofit organizations that are authorized to receive or purchase wine at prices other than those contained in schedules filed with the Department of Alcoholic Beverage Control.

(4) *The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified. This bill, by changing the definition of an existing crime, imposes a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

~~The federal Indian Gaming Regulatory Act provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.~~

~~This bill would ratify tribal-state gaming compacts entered into on September 9, 2005, between the State of California and the Big Lagoon Rancheria, and between the State of California and the Los Coyotes Band of Cahuilla and Cupeno Indians. The bill would require that related revenue contributions be deposited into the General Fund and would also specify that, in deference to tribal sovereignty, certain actions may not be deemed projects for purposes of the California Environmental Quality Act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. (a) This act shall be known and may be cited as*
2 *the Nonprofit Organization Equal Participation Act.*

3 *(b) The Legislature finds and declares all of the following:*

4 *(1) The California wine industry generates one hundred fifteen*
5 *million dollars (\$115,000,000) annually in support of nonprofit*
6 *organizations and their causes.*

7 *(2) The collaboration between the wine industry and nonprofit*
8 *organizations has a proven track record in attracting supporters*
9 *to nonprofit fundraising events. This support has resulted in*
10 *sustaining vital community services across the state.*

11 *(3) Nonprofit organizations that hold wine related events provide*
12 *an opportunity for small, startup, and family wine producers to*
13 *build brand awareness and develop new marketing opportunities.*
14 *This is increasingly important in a highly competitive industry*
15 *with over 2,400 licensed wineries and 1,400 custom crush*
16 *producers.*

17 *(4) Current law provides that the wine industry can participate*
18 *in winetastings, donate wine, take orders, and sell bottled wine at*
19 *certain nonprofit events.*

20 *(5) The purpose of this act is to provide continuity and equal*
21 *participation for nonprofit organizations in sanctioned wine related*
22 *events and to provide orderly direction for wine producers.*

23 *SEC. 2. Section 23356.1 of the Business and Professions Code*
24 *is amended to read:*

25 23356.1. (a) A winegrower's license also authorizes the person
26 to whom issued to conduct winetastings of wine produced or
27 bottled by, or produced and packaged for, the licensee, either on
28 or off the winegrower's premises. When a winetasting is held off
29 the winegrower's premises at an event sponsored by a private
30 nonprofit organization, no wine may be sold, and no sales or orders
31 solicited, except that orders for the sale of wine may be accepted
32 by the winegrower if the sales transaction is completed at the
33 winegrower's premises. For purposes of this subdivision, "private
34 nonprofit organization" means an organization described in Section
35 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701i, 23701k,
36 23701l, 23701r, or 23701w of the Revenue and Taxation Code.

37 (b) Notwithstanding any other provisions of this division, a
38 winegrower who, prior to July 1, 1970, had, at his or her premises

1 of production, sold to consumers for consumption off the premises
2 domestic wine other than wine which was produced or bottled by,
3 or produced and packaged for, the licensee, and which was not
4 sold under a brand or trade name owned by the licensee, and who
5 had, prior to July 1, 1970, conducted winetastings of the domestic
6 wine at his or her licensed premises, is authorized to continue to
7 conduct the winetasting and selling activities at the licensed
8 premises.

9 (c) A winegrower who was licensed as such prior to July 1,
10 1954, and who prior to July 1, 1970, had, at his or her licensed
11 premises, sold to consumers for consumption off the premises,
12 wine packaged for and imported by him or her, and who conducted
13 winetastings of the wines at his or her licensed premises, may
14 continue to conduct the winetasting and selling activities at the
15 licensed premises.

16 (d) The department may adopt the rules as it determines to be
17 necessary for the administration of this section.

18 *SEC. 3. Section 23399.6 of the Business and Professions Code*
19 *is amended to read:*

20 23399.6. (a) Any licensee under a winegrower's license may
21 apply to the department for a wine sales event permit. The wine
22 sales event permit shall authorize the sale of bottled wine produced
23 by the winegrower at festivals, state, county, district, or citrus fruit
24 fairs, civic or cultural celebrations, or similar events approved by
25 the department. The sale of the wine shall not be the primary
26 purpose of the event, and the sale shall be for consumption off the
27 premises where sold. The permit shall be valid for a maximum of
28 five consecutive days during the event period. The event shall be
29 sponsored by an organization that is exempt from taxation under
30 Section 23701a of the Revenue and Taxation Code, including state
31 designated fairs as specified in Section 19418 of the Revenue and
32 Taxation Code, or exempt from taxation under Section 23701b,
33 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r,
34 or 23701w of the Revenue and Taxation Code.

35 (b) A wine sales event permit may not be used more than two
36 times a month at a particular location.

37 (c) Consent for sales at each event shall be first obtained by an
38 annual authorization issued by the department. The applicant for
39 the wine sales permit is required to notify the city, county, or city
40 and county where the event is being held at least five days prior

1 to the event. At all events, a copy of the wine sales permit shall
2 be maintained. The licensee may exercise only those privileges
3 authorized by the licensee's license and shall comply with all
4 provisions of the act pertaining to that license, and any violation
5 of those provisions may be grounds for suspension or revocation
6 of the licensee's license or permit, or both, as though the violation
7 occurred on the licensed premises.

8 (d) (1) A licensee may not sell more than 5,000 gallons of wine
9 annually pursuant to wine sales event permits issued under this
10 section to that licensee.

11 (2) A licensee holding a wine sales event permit may not sell
12 more than 1,250 gallons of wine per event.

13 (3) A licensee that is eligible to receive a certified farmers'
14 market sales permit under Section 23399.4 and a wine sales event
15 permit may not, under both permits collectively, sell more than a
16 total of 5,000 gallons of wine annually.

17 (4) The licensee shall annually report to the department the total
18 gallons of wine sold by that licensee under permits issued under
19 this section to that licensee. The report may be included within the
20 annual report of production submitted by the licensee to the
21 department, or may be made in another manner as prescribed by
22 the department in regulation.

23 (e) The sponsoring tax-exempt organization may charge a fee
24 of the licensee for the licensee's use of display booth space. The
25 fee, if paid, shall be comparable with, or less than, fees, or goods
26 or services of equivalent value, paid by other vendors at the event
27 for a similar booth size and location.

28 (f) The sponsoring tax-exempt organization shall allow the
29 participation of more than one winegrower under a wine sales
30 event permit at an event if public attendance at the event is
31 expected to reach or exceed 1,000 attendees. The prior year's stated
32 attendance for the event shall be used to determine the expected
33 attendance.

34 (g) (1) The fee for the authorization to utilize a wine sales
35 permit shall be fifty dollars (\$50) per year, and the authorization
36 may be renewable annually at the time of the licensee's license.
37 The wine sales permit authorization shall be transferable as part
38 of the license.

39 (2) All money collected as fees pursuant to this subdivision
40 shall be deposited in the Alcohol Beverage Control Fund, as

described in Section 25761, for allocation, upon appropriation by the Legislature, as provided in subdivision (d) of that section.

(h) The department may adopt any regulations as it determines to be necessary for the administration of this section.

SEC. 4. Section 25503.9 of the Business and Professions Code is amended to read:

25503.9. Nothing in this division prohibits a winegrower or a beer and wine wholesaler that also holds an off-sale beer and wine retail license and only sells wine from giving or selling wine, a beer manufacturer from giving or selling beer, a distilled spirits manufacturer or a distilled spirits manufacturer's agent from giving or selling distilled spirits, or a licensed importer from giving or selling beer, wine, or distilled spirits at prices other than those contained in schedules filed with the department, to any of the following:

(a) A nonprofit charitable corporation or association exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code.

(b) A nonprofit incorporated trade association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code, and the members of which trade association are licensed under this division. However, the wine, beer, and distilled spirits shall be used solely for a convention or meeting of the nonprofit incorporated trade association.

(c) A nonprofit corporation or association that is exempt from payment of income taxes under the provisions of the Internal Revenue Code of 1954 of the United States and is defined as a tax exempt organization under Section 23701a, 23701b, 23701d, 23701e, 23701f, ~~or 23701h~~ 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and Taxation Code. Wine, beer, and distilled spirits given or sold by a winegrower, beer manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, or licensed importer pursuant to this subdivision may be furnished only in connection with public service or fundraising activities including picnics, parades, fairs, amateur sporting events, agricultural exhibitions, or similar events.

1 *SEC. 5. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SECTION 1. Section 12012.53 is added to the Government~~
11 ~~Code, to read:~~

12 ~~12012.53. (a) The tribal-state gaming compact entered into in~~
13 ~~accordance with the Indian Gaming Regulatory Act of 1988 (18~~
14 ~~U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)~~
15 ~~between the State of California and the Big Lagoon Rancheria,~~
16 ~~executed on September 9, 2005, is hereby ratified.~~

17 ~~(b) (1) In deference to tribal sovereignty, none of the following~~
18 ~~shall be deemed a project for purposes of the California~~
19 ~~Environmental Quality Act (Division 13 (commencing with Section~~
20 ~~21000) of the Public Resources Code):~~

21 ~~(A) The execution of an amendment of the tribal-state gaming~~
22 ~~compact ratified by this section.~~

23 ~~(B) The execution of the tribal-state gaming compact ratified~~
24 ~~by this section.~~

25 ~~(C) The execution of an intergovernmental agreement between~~
26 ~~a tribe and a county or city government negotiated pursuant to the~~
27 ~~express authority of, or as expressly referenced in, the tribal-state~~
28 ~~gaming compact ratified by this section.~~

29 ~~(D) The execution of an intergovernmental agreement between~~
30 ~~a tribe and the California Department of Transportation negotiated~~
31 ~~pursuant to the express authority of, or as expressly referenced in,~~
32 ~~the tribal-state gaming compact ratified by this section.~~

33 ~~(E) The on-reservation impacts of compliance with the terms~~
34 ~~of the tribal-state gaming compact ratified by this section.~~

35 ~~(F) The sale of compact assets, as defined in subdivision (a) of~~
36 ~~Section 63048.6, or the creation of the special purpose trust~~
37 ~~established pursuant to Section 63048.65.~~

38 ~~(2) Except as expressly provided herein, nothing in this~~
39 ~~subdivision shall be construed to exempt a city, county, or city~~

1 and county, or the California Department of Transportation, from
2 the requirements of the California Environmental Quality Act.

3 (e) ~~Revenue contributions made to the state by the tribe pursuant~~
4 ~~to the tribal-state gaming compact ratified by this section shall be~~
5 ~~deposited in the General Fund.~~

6 SEC. 2. ~~Section 12012.54 is added to the Government Code,~~
7 ~~to read:~~

8 12012.54. (a) ~~The tribal-state gaming compact entered into in~~
9 ~~accordance with the Indian Gaming Regulatory Act of 1988 (18~~
10 ~~U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)~~
11 ~~between the State of California and the Los Coyotes Band of~~
12 ~~Cahuilla and Cupeno Indians, executed on September 9, 2005, is~~
13 ~~hereby ratified.~~

14 (b) (1) ~~In deference to tribal sovereignty, none of the following~~
15 ~~shall be deemed a project for purposes of the California~~
16 ~~Environmental Quality Act (Division 13 (commencing with Section~~
17 ~~21000) of the Public Resources Code):~~

18 (A) ~~The execution of an amendment of the tribal-state gaming~~
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22 (C) ~~The execution of an intergovernmental agreement between~~
23 ~~a tribe and a county or city government negotiated pursuant to the~~
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25 ~~gaming compact ratified by this section.~~

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27 ~~a tribe and the California Department of Transportation negotiated~~
28 ~~pursuant to the express authority of, or as expressly referenced in,~~
29 ~~the tribal-state gaming compact ratified by this section.~~

30 (E) ~~The on-reservation impacts of compliance with the terms~~
31 ~~of the tribal-state gaming compact ratified by this section.~~

32 (F) ~~The sale of compact assets, as defined in subdivision (a) of~~
33 ~~Section 63048.6, or the creation of the special purpose trust~~
34 ~~established pursuant to Section 63048.65.~~

35 (2) ~~Except as expressly provided herein, nothing in this~~
36 ~~subdivision shall be construed to exempt a city, county, or city~~
37 ~~and county, or the California Department of Transportation, from~~
38 ~~the requirements of the California Environmental Quality Act.~~

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3 ~~deposited in the General Fund.~~

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